

## Federal Housing Finance Agency.

## § 1237.10

### § 1237.6 Authority to enforce contracts.

The conservator or receiver may enforce any contract entered into by the regulated entity pursuant to the provisions and subject to the restrictions of section 1367(d)(13) of the Safety and Soundness Act.

### Subpart B—Claims

#### § 1237.7 Period for determination of claims.

Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim. This period may be extended by a written agreement between the claimant and the Agency as receiver, which may include an agreement to toll any applicable statute of limitations.

#### § 1237.8 Alternate procedures for determination of claims.

Claimants seeking a review of the determination of claims may seek alternative dispute resolution from the Agency as receiver in lieu of a judicial determination. The Director may by order, policy statement, or directive establish alternative dispute resolution procedures for this purpose.

#### § 1237.9 Priority of expenses and unsecured claims.

(a) *General.* The receiver will grant priority to unsecured claims against a regulated entity or the receiver for that regulated entity that are proven to the satisfaction of the receiver in the following order:

(1) Administrative expenses of the receiver (or an immediately preceding conservator).

(2) Any other general or senior liability of the regulated entity (that is not a liability described under paragraph (a)(3) or (a)(4) of this section).

(3) Any obligation subordinated to general creditors (that is not an obligation described under paragraph (a)(4) of this section).

(4) Any claim by current or former shareholders or members arising as a

result of their current or former status as shareholders or members, including, without limitation, any securities litigation claim. Within this priority level, the receiver shall recognize the priorities of shareholder claims *inter se*, such as that preferred shareholder claims are prior to common shareholder claims. This subparagraph (a)(4) shall not apply to any claim by a current or former member of a Federal Home Loan Bank that

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purposes of section 1367(i)(6)(C)(i) of the Safety and Soundness Act.

(b) *Investment authority.* The requirements of section 1367(i)(4) shall apply only to the liquidity portfolio of a limited-life regulated entity.

(c) *Policies and procedures.* The Agency may draft such policies and procedures with respect to limited-life regulated entities as it determines to be necessary and appropriate, including policies and procedures regarding the timing of the creation of limited-life regulated entities.

### § 1237.11 Authority of limited-life regulated entities to obtain credit.

(a) *Ability to obtain credit.* A limited-life regulated entity may obtain unsecured credit and issue unsecured debt.

(b) *Inability to obtain credit.* If a limited-life regulated entity is unable to obtain unsecured credit or issue unsecured debt, the Director may authorize the obtaining of credit or the issuance of debt by the limited-life regulated entity with priority over any and all of the obligations of the limited-life regulated entity, secured by a lien on property of the limited-life regulated entity that is not otherwise subject to a lien, or secured by a junior lien on property of the limited-life regulated entity that is subject to a lien.

(c) *Limitations.* The Director, after notice and a hearing, may authorize a limited-life regulated entity to obtain credit or issue debt that is secured by a senior or equal lien on property of the limited-life regulated entity that is already subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by an Enterprise) only if the limited-life regulated entity is unable to obtain such credit or issue such debt otherwise on commercially reasonable terms and there is adequate protection of the interest of the holder of the earlier lien on the property with respect to which such senior or equal lien is proposed to be granted.

(d) *Adequate protection.* The adequate protection referred to in paragraph (c) of this section may be provided by:

(1) Requiring the limited-life regulated entity to make a cash payment or periodic cash payments to the holder of the earlier lien, to the extent that

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there is likely to be a decrease in the value of such holder's interest in the property subject to the lien;

(2) Providing to the holder of the earlier lien an additional or replacement lien to the extent that there is likely to be a decrease in the value of such holder's interest in the property subject to the lien; or

(3) Granting the holder of the earlier lien such other relief, other than entitling such holder